

**East Fallowfield Township  
CHESTER COUNTY, PENNSYLVANIA**

**ORDINANCE NO. 2007 -**

**AN ORDINANCE AMENDING ORDINANCE NO. 2004-03, THE EAST FALLOWFIELD EMERGENCY AND MUNICIPAL SERVICES TAX ORDINANCE” TO CHANGE THE TITLE TO “THE EAST FALLOWFIELD TOWNSHIP LOCAL SERVICES TAX ORDINANCE”, REPLACE REFERENCE WITHIN THE ORDINANCE TO “EMERGENCY AND MUNICIPAL SERVICES TAX” AND “EMERGENCY AND MUNICIPAL SERVICES TAX COLLECTOR” TO “LOCAL SERVICES TAX” AND “LOCAL SERVICES TAX COLLECTOR”, TO ADD DEFINITIONS FOR EARNED INCOME, NET PROFITS, AND RESERVE COMPONENT OF THE ARMED SERVICES, TO ADD EXEMPTIONS FOR PERSONS CALLED TO ACTIVE DUTY IN A MILITARY RESERVE UNIT AND FOR PERSONS DISABLED DURING MILITARY SERVICE, TO PROVIDE FOR THE PRO-RATA WITHHOLDING OF THE TAX AND TO PROVIDE FOR THE REFUND OF OVERPAID TAX.**

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors of East Fallowfield Township as follows:

**SECTION I:** East Fallowfield Township Ordinance Number 2004-03 is amended to repeal the existing Ordinance 2004-03 in its entirety as of December 31, 2007 and to replace it with a new Ordinance 2007-\_\_\_\_ entitled “Local Services Tax” effective January 1, 2008 to read as follows:

**Section 1. Short title.**

This ordinance shall be known and may be cited as the "East Fallowfield Township Local Services Tax."

**Section 2. Imposition of tax.**

- A. Every individual who engages in an occupation within the Township of East Fallowfield shall pay a local services tax to the Township in the amount of \$52 per individual per calendar year.
- B. In the event that an individual is engaged in more than one occupation, or in an occupation which requires his working in more than one political subdivision during the calendar year, then the provisions of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, Section 2, as amended, 53 P.S. § 6902, shall determine the priority of East Fallowfield Township's claim to collect such local services tax.
- C. All taxes imposed by this ordinance, together with all interest, penalties and costs, shall be recoverable by the Solicitor of East Fallowfield Township as debts of like amounts are

recoverable by law.

- D. The Tax imposed under this ordinance shall be used for police, fire or emergency services, road maintenance or real estate tax reduction purposes, as provided for under the provisions of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, Section 22.6, as amended, 53 P.S. § 6922.6.
- E. This ordinance is enacted under the authority of the Local Tax Enabling Act, as amended (53 P.S. § 6901 et. seq.).

### **Section 3. Definitions.**

As used in this ordinance, the following terms shall have the meanings indicated except where the context or language clearly indicates or requires a different meaning. Use of the masculine gender shall include the feminine and neuter, and reference to the masculine singular shall include the plural.

**EARNED INCOME** – Shall have the same meaning as provided for in The Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, Section 13, Division I, as amended, 53 P.S. § 6913.

**EMPLOYEE** - An individual whose compensation is subject to the withholding of federal income tax and who performs services for an employer.

**EMPLOYER** - An individual, partnership, association, corporation, governmental body, agency or other entity employing one or more individuals on a salary, commission or other compensation basis, including a self-employed individual.

**INDIVIDUAL** - Any person, male or female, engaged in any occupation, trade or profession of any nature within the corporate limits of East Fallowfield Township, whether in the employ of another or self-employed.

**LOCAL SERVICES TAX COLLECTOR** - The Treasurer of East Fallowfield Township, his designated representative or a person or corporation engaged for this purpose by contract with East Fallowfield Township.

**NET PROFITS** – Shall have the same meaning as provided for in The Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, Section 13, Division I, as amended, 53 P.S. § 6913.

**OCCUPATION** - 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 East Fallowfield Township for which compensation is charged or received, whether by means of salary, wages, commission, fees or otherwise, for services rendered.

**RESERVE COMPONENT OF THE ARMED SERVICES** – 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.

**TAX** - The local services tax in the amount of \$52 levied by this ordinance on each individual engaged in any occupation, as hereinbefore defined, within the corporate limits of East Fallowfield Township.

YEAR - The calendar year.

**Section 4. Collection and payment of tax.**

- A. Duty of employer to collect and make payment. Each employer within East Fallowfield Township, as well as each employer situated outside of East Fallowfield Township but who engages in business within East Fallowfield Township, is hereby charged with the duty of collecting from each employee engaged by the employer and performing for the employer within East Fallowfield Township, the tax of \$52 per annum and making a return and payment thereof to the Local Services Tax Collector. Subject to the withholding requirements of this section, each employer is hereby authorized to deduct the tax from the compensation of each employee in its employ, whether said employee is paid by salary, wages or commissions and whether or not part or all of such services are performed within East Fallowfield Township. Each employer shall pay the tax to the Local Services Tax Collector as provided herein, whether or not the tax was deducted from the compensation of each employee in its employ.
- (1) An employer required hereunder to collect the tax shall withhold a pro-rata share of the total tax per annum for each payroll period in which the person is engaged in an occupation. The pro-rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the local services tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro-rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the local services tax levied under this section shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided for in Section 4.A(3).
  - (2) Upon notification to an employer by the person or by East Fallowfield Township that a person has received Earned Income and Net Profits from all sources within East Fallowfield Township equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of Earned Income within East Fallowfield Township in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification hereunder, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this section, 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 that the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and East Fallowfield Township may pursue collection of the tax.
  - (3) In the case of an employee who has concurrent employment, an employer shall refrain from withholding the local services tax if the employee provides a recent pay stub

from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the local services tax withheld and a statement from the employee that the pay statement is from the employer's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence.

- B. Returns; responsibility for payment. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Local Services Tax Collector. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full as though the tax had originally been levied against the employer.
- C. Dates for determining liability and payment. Each employer shall use his employment record as of each payroll period in the calendar year to determine from whom the tax shall be deducted. An employer shall be required to remit quarterly payments of the tax to the Local Services Tax Collector on or before the thirtieth day after the end of each quarter of a calendar year on forms prescribed by the Local Services Tax Collector.
- D. Self-employed individuals. Every taxpayer who is self-employed and has not filed an exemption certificate with the Tax Collector, or whose Tax for any other reason is not collected under this section, shall file a return on a form prescribed by the Local Services Tax Collector and shall pay a pro-rata share of the Tax directly to the Local Services Tax Collector within 30 days after the end of each calendar quarter. The pro-rata share of the tax assessed on a taxpayer for a calendar quarter shall be determined by dividing the rate of the Tax levied under this ordinance for the Year by four.
- E. Persons residing outside the Township. All self-employed individuals and employers residing or having their place of business outside the corporate limits of East Fallowfield Township and engaging in an occupation within the Township do by virtue thereof agree to be bound by and subject themselves to the provisions of this ordinance and the regulations promulgated hereunder with the same force and effect as though they had their place of business in or were residents of East Fallowfield Township. Further, any individual engaged in an occupation within East Fallowfield Township and as an employee of a nonresident employer may, for the purpose of this ordinance, be considered a self-employed person, but in the event the tax is not paid, the Local Services Tax Collector shall have the option of proceeding against either the employer or employee for the collection as hereinafter provided.
- F. Individuals engaged in more than one occupation.
  - (1) Each employee who shall have more than one occupation within East Fallowfield Township shall be subject to the payment of this tax on his principal occupation, and his principal employer shall deduct this tax. The principal employer shall deliver to such employee evidence of deduction. This evidence of deduction showing that payment having been made and, when presented to any other employer, shall be authority for such employer to not deduct this tax from the employee's wages but to include such employee on his return by setting forth his name, social security number and the name of the employer who deducted this tax.

- (2) In the event that an individual is engaged in more than one occupation or an occupation which requires his working in more than one political subdivision during the calendar year, the priority of claim to collect such local services tax shall be in the following order: first, the political subdivision in which an individual maintains his principal office or is principally employed; second, the political subdivision in which the individual resides and works if such a tax is levied by that political subdivision; third, the political subdivision in which an individual is employed and which imposes the tax nearest in miles to the individual's home. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year.
  - (3) It is the intent of this provision that no individual shall pay more than \$52 in any calendar year as a local services tax, irrespective of the number of political subdivisions within which such individual may be employed within any given calendar year. In case of dispute, a proof of payment that that tax has been paid for that calendar year shall constitute prima facie certification of payment to all other political subdivisions.
- G. Each employer shall ensure that exemption certificate forms are readily available to employees at all times and shall furnish each new employee with an exemption certificate form at the time of hiring and prior to the first payroll period of each Year

#### **Section 5. Administration and enforcement.**

A. Powers and duties of Tax Collector.

- (1) It shall be the duty of the Local Services Tax Collector to accept and receive payments of the tax and to keep a record thereof showing the amount received by him from each employer or self-employed individual, together with the date the tax was received.
  - (2) The Local Services Tax Collector is hereby charged with the administration and enforcement of this ordinance and is hereby charged and empowered to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this ordinance, including provisions for the examination of the books, accounts and payroll records of any employer subject to this ordinance, the examination and correction of any return made in compliance with this ordinance and any payment alleged or found to be incorrect or as to which overpayment is claimed and found to have occurred.
  - (3) The Local Services Tax Collector is hereby authorized to examine the books, accounts 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 occupational privilege tax collector the means, facilities and opportunity for such examination.
- B. Late payment; recovery. If for any reason the tax is not paid when due; a penalty of 10% shall be added to the tax, and interest at the rate of 1% per month or fraction thereof shall also be added. Where legal action is brought for the recovery of the tax, the individual or employer thereafter shall, in addition, be responsible and liable for collection costs

including attorney fees.

- C. Violations and penalties. Any person who makes any false or untrue statement on any return or record required by this ordinance, refuses inspection of his books, records or accounts in his custody and control, fails or refuses to file any return required by this ordinance or fails to pay the tax due shall be subject to a fine in the amount of at least \$25, but not to exceed \$600, for each offense, plus all court costs, including reasonable attorney fees incurred by the Township. Upon a finding of liability for committing said violation, or permitting said violation, in a civil enforcement proceeding commenced by the Township, the defendant shall pay the fine plus costs and attorney fees. No judgment shall be imposed until the date of determination of a violation by a District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required by this ordinance.

### **Section 6. Exemptions.**

- A. Any person whose total earned income and net profits from all sources within East Fallowfield Township is less than \$12,000 per calendar year in which the tax is levied shall be exempt from this tax upon the filing of an exemption certificate with the Local Services Tax Collector.
- B. Any person who has 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 services if, 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 disability shall be exempt from this tax upon the filing of an exemption certificate with the Local Services Tax Collector
- C. Any person who serves as a member of a Reserve Component of the Armed Forces and is called to active duty at anytime during the taxable year shall be exempt from this tax upon the filing of an exemption certificate with the Local Services Tax Collector.
- D. The Local Services Tax Collector is hereby charged and empowered to adopt regulations for the processing of claims for exemptions under this Section 6.
- E. A person seeking exemption from the Tax under Section 6 must annually file an exemption certificate with the employer and the Local Services Tax Collector. If a person claims an exemption from the Tax under Section 6.A, the exemption certificate shall have attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within East Fallowfield Township for the calendar year prior to the calendar year for which the employee is requesting to be exempt from the Tax. The exemption certificate for any exemption under Section 6 must be in a form substantially similar to the uniform exemption certificate prescribed by the Pennsylvania Department of Community and Economic Development.

**Section 7. Refunds.**

- A. A person who overpaid local services tax for a calendar year shall be entitled to a refund of the tax by filing a refund request with the Local Services Tax Collector. A person shall only be entitled to a refund of tax for amounts overpaid in a calendar year that exceed \$1.00.
- B. The Local Services Tax Collector is hereby charged and empowered to adopt regulations for the processing of refund claims for overpaid local services tax consistent with 53 Pa.C.S. § 8425, as amended (relating to refunds of overpayments) and 53 Pa.C.S § 8426, as amended (relating to interest on overpayments).
- C. A person shall not be entitled to interest on the amount of refunded tax if the Township pays the refund within seventy-five days of the refund request or seventy-five days after the last day the employer is required to remit the local services tax for the last quarter of the calendar year under Section 4.C, whichever is later.

**Section 8. Collection of Coatesville School District Local Services Tax**

- A. If the Coatesville Area School District levies a local services tax during the Year on persons employed within East Fallowfield Township, the Local Services Tax Collector is hereby authorized to collect the tax on behalf of the Coatesville Area School District based on payroll periods as provided for under Section 4.A(1).
- B. The Local Services Tax Collector is hereby authorized to pay to the Coatesville Area School District the tax revenues collected under Section 8.A on a quarterly basis within sixty days of receipt of the tax revenues by the Local Services Tax Collector.

**SECTION II. Severability**

The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provision or application.

**SECTION III. Effective date.**

This Ordinance shall become effective on or after five (5) days after enactment and shall apply to tax years commencing on or after January 1, 2008.

ENACTED AND ORDAINED This \_\_\_\_\_ day of November, 2007.

EAST FALLOWFIELD TOWNSHIP  
BOARD OF SUPERVISORS

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Garth Monaghan, Chairman

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Denny Howell, Vice Chairman

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George Broadbent, Member

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Denise Miller, Secretary