

**ORDINANCE NO. 163**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF RUSH TOWNSHIP, ADOPTED AND THEREAFTER AMENDED, WITH RESPECT TO ORDINANCE NO. 154, EMERGENCY AND MUNICIPAL SERVICES TAX, AND TO ENACT A NEW ORDINANCE TO BE ENTITLED LOCAL SERVICES TAX.**

**IT IS HEREBY ENACTED AND ORDAINED** by Rush Township, Schuylkill County, Pennsylvania., as follows:

**Section 1: Definitions.**

The following words and phrases, when used in this ordinance, shall have the meaning ascribed to them in this section, except when the content or language clearly indicates or requires a different meaning:

Political subdivision: The area within the corporate limits of Rush Township.

Collector: The person, public employee, or private agency designated by the political subdivision to collect and administer the tax herein imposed.

DCED: The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

Earned Income: Compensation as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L.1257, §13, as amended, 53 P.S. §6913, as amended.

Employer: An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

He, His or Him: Includes the singular and plural number, as well as the male, female and neuter genders.

Individual: any person, male or female, engaged in any occupation, a trade or profession within the corporate limits of the political subdivision.

Net profits: The net income from the operation of a business, profession, or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L.1257, §13, as amended, 53 P.S. §6913, as amended.

Occupation: Any trade, profession, business or undertaking of any type or character, including services, domestic or other, earned in or performed within the corporate limits of Rush Township for which compensation is charged or received, whether by means of salary, wages, compensation or fees for services rendered.

Tax: The Local Services Tax at the rate fixed in Section 2 of this ordinance.

Tax year: The period from January 1 until December 31 in any year; a calendar year.

### **Section 2: Levy of Tax.**

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008; upon the privilege of engaging in an occupation with a primary place of employment within the political subdivision during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of Fifty-two (\$52.00) Dollars, assessed on a pro rata basis, in accordance with the provisions of this section. This tax may be used solely for the following purposes as the same may be allocated by the Board of Supervisors from time to time: (1) emergency services, which shall include emergency medical services, police services and/or fire services; (2) road construction and/or maintenance; (3) reduction of property taxes; or (4) property tax relief through implementation of the homestead and farmstead exclusion in accordance with 53 Pa.C.S. Chapter 85, subchapter F (relating to homestead property exclusion). The political subdivision shall use no less than twenty-five (25%) percent of the funds derived from the tax for emergency purposes. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than Fifty-two (\$52.00) Dollars on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

### **Section 3: Exemption and Refunds.**

A. Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than Twelve Thousand (\$12,000.00) Dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

(1) 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 service if, as a result of military service, the person is blind, a paraplegic or a double or quadruple amputee or has a service-connected disability then declared by the United States Veterans Administration or its successor to be a total one hundred (100%) percent disability.

(2) 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. For the purposes of this subparagraph, "reserve component of the armed forces" shall mean the United



States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, Pennsylvania Army National Guard for Pennsylvania Air National Guard.

B. Procedure to claim exemption.

(1) A person seeking to claim an exemption from the Local Services Tax may annually file an exemption certificate within the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than Twelve Thousand (\$12,000.00) Dollars in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to a copy all the employee's last pay stubs or W-2 forms from employment within a political subdivision for the tax year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.

(2) With respect to a person who claims an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of Twelve Thousand (\$12,000.00) Dollars in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or up on an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of Twelve Thousand (\$12,000.00) Dollars in that calendar year, an employer shall withhold the Local Services Tax from the person under clause (3).

(3) If a person who claims the exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), 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 subsection, 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 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 the political subdivision may pursue collection under this Section.

(4) Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the Local Services Tax.

**C. Refunds.**

The board of Township Supervisors, in consultation with the collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments, and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of a calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1.00. The Borders Township Supervisors or the collector shall determine eligibility for exemption and provide refunds to exempt persons.

**Section 3. Duty of Employers to Collect.**

A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wages or commission and whether or not all such services are performed within the political subdivision.

B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the 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-hundredths of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided paragraph D of this section. For purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

C. No person shall be subject to the payment of the Local Services Tax by more than one political subdivision during each payroll period.

D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the