

**EAST COCALICO TOWNSHIP
LANCASTER COUNTY, PENNSYLVANIA**

(Blue text is as amended by Ordinance 2011-06)

ORDINANCE NO. ____2009-04_____

**AN ORDINANCE REVISING CHAPTER 199, TAXATION,
ARTICLE I, OCCUPATIONAL PRIVILEGE TAX BY DELETING
THE SAME AND BY REPLACING ARTICLE I WITH AN
ORDINANCE IMPOSING A LOCAL SERVICES TAX OF \$52.00,
ESTABLISHING DEFINITIONS, PROVIDING FOR
EXEMPTIONS FOR THE TAX, ESTABLISHING
COLLECTION PROCEDURES AND ESTABLISHING
PENALTIES FOR THE VIOLATION OF THESE REGULATIONS.**

BE IT ENACTED AND ORDAINED by the Board of Supervisors of East Cocalico Township, Lancaster County, Pennsylvania and it is hereby enacted and ordained by the authority of same as follows:

"SECTION 1.

Chapter 199 (Taxation), Article I, §199-1 through §199-14, titled Occupational Privilege Tax is hereby deleted and revised in its entirety to read as follows:

Section 199-1. ARTICLE I, Local Services Tax, Section 1 TITLE. This Article shall be known and may be cited as the "Local Services Tax Ordinance."

Section 199-2. This Article is enacted under the authority of Act 511 of 1965 as amended known as the Local Tax Enabling Act, 53 P.S. §6924.101 et seq.

Section 199-3. Definitions. As used in this Article, unless the context clearly indicates a different meaning, the following words shall have the meaning set forth below:

CALENDAR YEAR – The twelve month period beginning January 1st and ending December 31st.

COLLECTOR – A person designated by the governing body of the Township of East Cocalico to collect and administer the Tax.

EARNED INCOME – Compensation as determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the Tax Reform Code of 1971 and regulations 61 Pa. Code Pt. 1 Subpt. B, Art. V (relating to personal income Tax) NOT INCLUDING, however, wages or compensation paid to individuals on active military service.

EMPLOYER – A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation, including self-employed individuals.

EXEMPTION CERTIFICATE – An Exemption Certificate substantially in the form of the uniform certificate prescribed by the Pennsylvania Department of Community and Economic Development affirming that the person reasonably expects to receive Earned Income and/or Net Profits from all sources within the Municipality of less than twelve thousand (\$12,000.00) in the Calendar Year for which the Exemption Certificate is filed, which Exemption Certificate has attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the Municipality for the year prior to the Calendar Year for which the employee is requesting to be exempted from the Tax. In addition to the income exemptions, provision has been made for certain military exemptions.

INDIVIDUAL – Shall mean any person, male or female, engaged in any occupation, trade or profession within the boundaries of East Cocalico Township.

LOCAL SERVICES – Emergency 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. Subch. F.

MUNICIPALITY – The Township of East Cocalico.

NET PROFITS – The net income from the operation of a business, profession, or other activity, except corporations, determined under Section 303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971", and regulations in 61 Pa. Code Pt. I, Subpt. B, Art. V (relating to personal income Tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For Taxpayers engaged in the business, profession or activity of farming, the term shall not include:

(1) any interest earnings generated from any monetary accounts or investment instruments of the farming business;

(2) any gain on the sale of farm machinery;

(3) any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and

(4) any gain on the sale of other capital assets of the farm

NON RESIDENT – A person, partnership, association or other entity domiciled outside of the Municipality.

OCCUPATION- Any livelihood, job trade, profession, business or enterprise of any kind, including services, domestic or otherwise, for which any Earned Income and/or Net Profits are charged and received from sources within the Municipality.

POLITICAL SUBDIVISION – Any county, city, borough, incorporated town, township, school district, vocational school district and county institutional district.

PRECEDING YEAR – The Calendar Year before the current year.

TAX – Shall mean the Local Services Tax in the amount of Fifty-Two Dollars (\$52.00).

TAXPAYER – Any natural person liable for the Tax levied by §199-4 of this Article.

Section 199-4. Levy.

The Municipality hereby levies on every individual engaging in an Occupation within the jurisdictional limits of the Municipality a Tax in the amount of \$52.00 per annum, beginning the first day of January, 2010 and continuing on a calendar basis annually thereafter, until modified or repealed by a subsequent ordinance.

Section 199-5. Exemptions.

The Tax levied by Section 199-4 shall not be imposed upon the following persons:

A. 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 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 permanent disability.

B. 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 Calendar Year. For purposes of this subsection, a 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, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

C. Any person whose total Earned Income and/or Net Profits from all sources within the Municipality is less than twelve thousand (\$12,000.00) for the Calendar Year in which the Tax is levied.

D. Each Employer shall ensure that Exemption Certificate forms are readily available to employees.

E. A person seeking exemption from the Tax under this section must annually file an Exemption Certificate with the Employer and the Collector.

Section 199-6. Collection Through Employers.

A. Every Employer shall, within fifteen (15) days after first becoming an Employer, register with the Collector the Employer's name, address and such other information as the Collector may require. Failure to register in a timely manner does not relieve the Employer of the requirements of this Article.

B. As to each Taxpayer employed for any length of time during any payroll period of an Employer during the Calendar Year, each Employer shall deduct a pro rata share of the Tax from the Earned Income payable to the Taxpayer with respect to such payroll period. The pro rata share of the Tax assessed on a Taxpayer for a payroll period shall be determined by dividing the rate of the Tax (\$52.00) 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 of the Tax, an Employer shall round down the amount of Tax deducted for each payroll period to the nearest one-hundredth of a dollar.

C. Each Employer shall file a return on a form prescribed by the Collector, and pay the Collector the full amount of all such taxes deducted during a calendar quarter within 30 days after the end of the calendar quarter. A tax return must be filed for each calendar quarter, regardless of whether withholdings were completed or any tax liability exists.

D. Seasonal employees who are regularly on the payroll of an employer, or seasonal self-employed persons, who only work a portion of each year are required to pay \$52 each year, irrespective of how many pay periods they work. The amount deducted from a seasonal employee's pay should be adjusted to account for the fact that he is not receiving a paycheck every pay period. For example, if an employee regularly works only six months of the year, and pay periods occurs every other week, \$4.00, rather than \$2.00, should be deducted from that employee's pay during each period that he is paid.

E. If, for any reason, an employee's Local Services Tax withholding, or a self-employed person's LST submission, is short of the required total \$52 at the last pay period of the Calendar Year, the discrepancy should be made up in that last pay period.

F. Within thirty days of the end of the last quarter of the Calendar Year, each employer, and each self-employed person, shall file an end-of-year reconciliation with the Tax Collector, listing all employees from whom the Local Services Tax was turned over for that year and the total remitted for each employee.

For those employees whose total remittance is not \$52, an explanation must be provided for the discrepancy. The only acceptable reasons for not submitting \$52 in total for an employee are:

- (1)The employee was not on the payroll at the beginning of the year but was hired sometime during the year.**
- (2)The employee was terminated during the year.**
- (3)The business began operation sometime during the year.**

G. Failure to file an end-of-year reconciliation, or a properly documented Exemption Certificate in lieu of Tax payments, will result in a written reminder from the Tax Collector to be issued in February of the succeeding year. If the report or certificate is not filed within thirty days of the mailing of said reminder, fines and penalties will be assessed as described in Section 199-11 of this Ordinance.

H. Any Employer who discontinues business or ceases operation during the Calendar Year, shall within fifteen (15) days after discontinuing business or ceasing operation, file the return hereinabove required and pay the Tax to the Collector.

I. 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 Collector, shall be liable for such Tax in full, as though the Tax had originally been levied against such Employer. No Employer shall be liable for failure to deduct the Tax if the failure to deduct 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.

J. Each self-employed person shall make payments to the Tax Collector of four (4) quarterly payments of Thirteen and 00/100 (\$13.00) Dollars each with each remittance to occur within thirty (30) days of the end of each quarter.

K. Priority of Withholding.

The Tax shall be withheld at the place of employment on the first day the person becomes subject to the Tax during each payroll period.

In the event a person is engaged in more than one Occupation, i.e. concurrent employment, or an Occupation which requires the person working in more than one Political Subdivision during the payroll period, the priority to withhold the Tax shall be in the following order:

1. The Political Subdivision in which a person maintains his or her principal office or is principally employed;
2. The Political Subdivision in which the person resides and works, if the Tax is levied by that Political Subdivision;

3. The Political Subdivision in which a person is employed and which imposes the Tax nearest in miles to the person's home.

L. The Employer shall not deduct the Tax but shall maintain adequate records concerning the employees in the cases described in subsection 1 and 2 of this section.

1. It is the intent of this section that no person shall be subject to the payment of the Tax in more than one Municipality during each payroll period. No Taxpayer shall be required to pay more than \$52.00 in total during the Calendar Year. In the case of concurrent employment, an Employer shall refrain from withholding the Tax, if the employee provides:

(a) A recent pay statement from a principal Employer that includes the name of the Employer, the length of the payroll periods and the amount of the Tax withheld; and

(b) A statement from the employee that the pay statement is from the employee's principal Employer and the employee will notify other Employers of a change in principal place of employment within two weeks of its occurrence.

2. In the case of an employee claiming the exemption set forth in §199-5, if: (a) the employee has provided an Exemption Certificate to the Employer; (b) the Collector has not otherwise instructed the Employer; (c) the Employer has not received notification from the person who claimed the exemption or from the Collector that the person has received Earned Income and/or Net Profits from all sources within the Municipality equal to or in excess of twelve thousand dollars (\$12,000.00) in that Calendar Year or that the person is otherwise ineligible for the Tax exemption for that Calendar Year; and (d) the Employer has not paid to the person Earned Income within the Municipality an amount equal to or in excess of twelve thousand dollars (\$12,000.00) in that Calendar Year.

M. If a person has claimed exemption from the Tax under §199-5 for a given Calendar Year but either: (a) the Employer has received notification from the person who claimed the exemption or from the Collector that the person has received Earned Income and/or Net Profits from all sources within the Municipality equal to or in excess of twelve thousand dollars (\$12,000.00) in that Calendar Year or that the person is otherwise ineligible for the Tax exemption for that Calendar Year; or (b) the Employer has paid to the person Earned Income within the

Municipality an amount equal to or in excess of twelve thousand dollars (\$12,000.00) in that Calendar Year, then the Employer shall withhold the Tax for the remainder of that Calendar Year and the Employer shall withhold from the person, for the first payroll period after receipt of the notification described in clause (a) above or for the first payroll period after payments described in clause (b) above have been made, a lump sum equal to the amount of Tax what was not withheld from the person due to the Tax Exemption claimed by the person, 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 subsection is subsequently severed in that Calendar Year, the person shall be liable for any outstanding balance of Tax due and the Collector may pursue collection under this Article.

N. Each Employer within the Municipality and each Employer located outside the Municipality who engages in business within the Municipality, is hereby charged with the duty of collecting the Tax from each of its employees performing work for the Employer within the Municipality.

Section 199-7. Nonresident Taxpayers.

Both resident and Non Resident Taxpayers shall, by virtue of engaging in an Occupation within the Municipality, be subject to the Tax and the provisions of this Article.

Section 199-8. Administration and Enforcement.

The Collector, on behalf of the Municipality, shall collect and receive the Taxes, interest, fines and penalties imposed by this Article, and shall maintain records showing interest, fines and penalties imposed by this Article, and shall maintain records showing the amounts received and the dates such amounts were received. The Collector shall prescribe and issue all forms necessary for the administration of the Tax. The Collector and any designated agents may examine the records of any Employer or of any Taxpayer in order to ascertain the Tax due or verify the accuracy of any return.

Section 199-9. Suits for Collection of Tax

The Municipality or its Collector of the Tax may collect unpaid Taxes from the Taxpayer or Employer owing such Taxes by suit as provided for by Act 511 of 1965, as amended, known as The Local Enabling Tax Act.

Section 199-10. Interest and Penalties for Unpaid Tax

If for any reason the Tax is not paid when due, interest at the rate of six percent per annum on the amount of said Tax shall be added and collected. Where suit is brought for the recovery of any such Tax, the Taxpayer or Employer liable for the Tax shall, in addition, be liable for the costs of collection and the interest herein imposed.

Section 199-11. Fines and Penalties for Violation of This Article

Any of the following actions will cause a Taxpayer or Employer to be brought before the district magistrate and, upon conviction of said actions, sentenced to remit the taxes owed and fined up to \$500, and costs, for each offense, and, in default of said fines and costs, be imprisoned for a period not exceeding thirty days:

- 1. Failure to register to pay said Tax.**
- 2. Failure to deduct or withhold said Tax from Employees.**
- 3. Failure, after written notice from the Tax Collector, to file any or all of the quarterly Tax submissions, or failure to file an Exemption Certificate in lieu of said submissions.**
- 4. Failure, after written notice from the Tax Collector, to file an End-of-Year Reconciliation as defined in Section 199-6.**
- 5. Refusal to permit the Tax Collector to examine the books, records and papers of the business**
- 6. Knowingly making an incomplete, false or fraudulent Tax submission, or doing anything whatsoever to avoid the full disclosure of the amount of Tax due.**

The failure of Taxpayer or Employer to receive or procure forms required for filing the required return does not excuse the Taxpayer or Employer from the filing requirement.

Section 199-12. Refunds.

Any person who has overpaid the Tax may obtain a refund by making a written application for a refund to the Collector no later than one (1) Calendar Year after payment of the Tax or three (3) years after the due date for payment of the Tax, whichever is later, and satisfactorily proves to the Collector that the Taxpayer is entitled to the refund. Refunds made within seventy-five (75) days of a refund request or seventy-five (75) days after the last day the Employer is required to remit the Tax to the Collector for the last quarter of the Calendar Year, whichever is later, shall not be subject to interest imposed under 53 Pa.C.S. §8426. A refund shall be provided only for an amount overpaid in a Calendar Year that exceeds one dollar (\$1.00).

Refund requests must be submitted on the form approved by the Collector. It should be noted that incomplete refund requests will be deferred until the missing or incomplete information is provided. Refunds in the deferred status are not subject to the payment of interest requirement.

Section 199-13. Receipt.

The Collector shall provide a Taxpayer a receipt of payment of the Tax upon request by the Taxpayer. A stamped self-addressed envelope shall be furnished by the Taxpayer if a receipt via return mail is desired.

Section 199-14. Applicability.

The Tax shall not apply to any person not within the taxing power of the Municipality under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

Section 199-15. Duration.

This Article shall continue in force from one Calendar Year to another without annual reenactment.

SECTION 2.

The amendments made by this Ordinance shall be effective with respect to the Calendar Year 2010 and each year thereafter.

SECTION 3.

Savings and Severability Clauses

A. If the Tax imposed upon any Taxpayer under the provisions of this Ordinance shall be held by a court of competent jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania or any other provision of law, the decision of the court shall not affect or impair the right to impose the Tax or the validity of the Tax so imposed upon other persons, as herein provided.

B. The provisions of this Ordinance are severable and, if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect any of the remaining provisions of this Ordinance. It is hereby declared to be the intention of the Supervisors that this Ordinance would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

ENACTED AND ORDAINED this _____ day of _____, 2011.

EAST COCALICO TOWNSHIP

Douglas B. Mackley

Alan R. Fry

Noelle B. Fortna